Medicare Enforcement Actions: The Federal Government's Anti-Fraud Efforts

OPENING STATEMENT OF SENATOR CRAIG

I'd like to thank Chairman Breaux for facilitating the work I and my staff have done in preparing this important hearing examining federal Medicare enforcement actions. But first of all, let me be crystal clear: We must continue to devote significant resources to combating fraud in the Medicare program. Those who violate the public trust must be punished to the fullest extent of the law.

That being said, however, I believe it is equally important that we also take a step back and seriously evaluate the full effects - both good *and* bad - of our federal Medicare enforcement efforts.

Many senior citizens in Idaho have expressed to me their deep concern at the difficult time they are having finding doctors who will accept new Medicare patients. Physicians, in turn, generally identify three major reasons for such limiting of Medicare participation: First, the complexity of Medicare regulations; second, alleged concerns about payment rates; and third, the alleged unfairly aggressive enforcement activities of federal agencies. Providers tell me they are deeply fearful of exposing themselves to zealous audits or dramatic penalties for innocent errors - errors which frequently result, ironically enough, from the very complexity of the Medicare rules being enforced.

Specifically, I've been hearing from physicians and other health care providers in my state that they are simply overwhelmed by the documentation requirements of the Medicare program. Many are also now so terrified of being caught up in an audit or enforcement action that they are spending significant resources, both in terms of money and time, on compliance. Compliance officers, consultants, attorneys, internal audits, endless documentation - these represent resources diverted from patient care. We need to fight genuine fraud, but care providers making a good faith effort to comply with the law should not have to live in fear, diverting time and money from their patients. Through this inquiry, I hope the Committee can begin to assess whether fears of overzealous enforcement are justified, and if so what can we do to correct the problem? And if it turns out that provider concerns are overblown, I want to hear that, too.

We need to take a hard look at the incentives that exist in this system and ask whether they place too much emphasis on money and collections, and not enough on combating true fraud.

We also need to look at overlaps in the authority exercised by various federal enforcement entities -- principally CMS, the HHS Inspector General, and the Department of Justice. Where is this overlap helpful? And where is it duplicative or even coercive? Where does there need to be more coordination between agencies?

I am very pleased that GAO is among our witnesses today - here to discuss some of the work they have done recently in this area. Following this hearing, I hope to work closely with John and others on this Committee in engaging GAO to expand and deepen its inquiries on these most important issues.

Let me close by stressing that I was very pleased to hear Secretary Thompson's announcement last week that he is forming a group of experts to look into ways we can reduce burdens on providers without increasing costs or undermining quality of care. I am confident that a thoughtful approach to these issues can yield realistic proposals for improving the system.

I'd like to thank each of the witnesses for being here today and for sharing their insights into this complex problem. I look forward to hearing your testimony.